

AMENDED IN ASSEMBLY MAY 24, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 999

Introduced by Assembly Member Bonta

February 22, 2013

An act to add Chapter 10.9 (commencing with Section 6500) to Title 7 of Part 3 of the Penal Code, relating to prison inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 999, as amended, Bonta. Prisoner Protections for Family and Community Health Act.

Under existing law, the Secretary of the Department of Corrections and Rehabilitation is responsible for the administration of the state prisons. Existing law makes it a crime to engage in sodomy while incarcerated in a state prison and existing regulation prohibits inmates from participating in illegal sexual acts.

This bill would require the department to develop a 5-year plan to extend the availability of condoms in all California prisons. The bill would require, commencing January 1, 2015, *and contingent upon the receipt of donations*, that no less than 5 prisons be incorporated into the program each year, and would require a comprehensive plan ~~including~~ *to include* every prison in the state by the final year. *The bill would make implementation of the program contingent upon the receipt of sufficient donations by the department and would require all nonadministrative costs of the program, including the dispensers and condoms, to be paid for through donations.* The bill would make related findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. This act shall be known, and may be cited, as the*
2 *Prisoner Protections for Family and Community Health Act.*
- 3 *SEC. 2. The Legislature finds and declares all of the following:*
4 *(a) Assembly Bill 1334 of the 2007–08 Regular Session would*
5 *have required the Department of Corrections and Rehabilitation*
6 *to allow nonprofits and health agencies to enter department*
7 *institutions to provide sexual barrier protection devices, including*
8 *condoms, to state prisoners.*
- 9 *(b) In his October 14, 2007, veto message for Assembly Bill*
10 *1334, Governor Arnold Schwarzenegger noted that, although it is*
11 *illegal to engage in sexual activity while incarcerated, providing*
12 *access to condoms is “consistent with the need to improve our*
13 *prison healthcare system and overall public health.”*
- 14 *(c) The veto message directed the department to determine the*
15 *risk and viability of such a program by identifying one state prison*
16 *facility for the purpose of allowing nonprofits and health agencies*
17 *to distribute sexual barrier devices.*
- 18 *(d) To accomplish the Governor’s directive, a pilot program*
19 *was implemented in Solano State Prison, Facility II, for one year,*
20 *from November 5, 2008, through November 4, 2009. Several*
21 *agencies covered all costs for the program and volunteered their*
22 *staff time and expertise.*
- 23 *(e) The Center for Health Justice, a nonprofit organization,*
24 *purchased the condom dispensing machines and condoms,*
25 *monitored and refilled the dispensers throughout the pilot period,*
26 *and provided education for staff and inmates.*
- 27 *(f) Researchers from the Division of Correctional Health Care*
28 *Services, Public Health Unit, and the State Department of Public*
29 *Health, Office of AIDS, and the Sexually Transmitted Diseases*
30 *Control Branch, provided evaluation services and finalized their*
31 *conclusions in a September 2011 report entitled: Evaluation of a*
32 *Prisoner Condom Access Pilot Program Conducted in One*
33 *California State Prison Facility.*
- 34 *(g) The report concluded that there was no evidence that the*
35 *availability of condoms created an increased risk of breaches of*

1 safety or security, or resulted in injury to staff or inmates, in a
2 general population prison facility setting.

3 (h) The report also stated that its findings may not be
4 generalizable to other settings, for example, because of higher
5 security or in a setting dedicated to inmates with mental health
6 problems. Additional pilot studies may be warranted in these other
7 settings.

8 (i) The report concluded that providing condoms from
9 dispensing machines similar to those used in the pilot program is
10 feasible and of relatively low cost to implement and maintain.

11 (j) Estimates of the in-prison HIV and STD transmission rates
12 are not available. However, given the relatively low cost of
13 providing condoms relative to the cost of treating HIV, and that
14 very few HIV infections would need to be prevented to cover the
15 costs of the program, it is likely that providing condoms could
16 reduce department medical costs.

17 SECTION 1.

18 SEC. 3. Chapter 10.9 (commencing with Section 6500) is added
19 to Title 7 of Part 3 of the Penal Code, to read:

20
21 CHAPTER 10.9. PRISONER PROTECTIONS FOR FAMILY AND
22 COMMUNITY HEALTH ACT
23

24 ~~6500. This act shall be known, and may be cited, as the Prisoner~~
25 ~~Protections for Family and Community Health Act.~~

26 ~~6501. The Legislature finds and declares all of the following:~~

27 ~~(a) Assembly Bill 1334 of the 2007—08 Regular Session would~~
28 ~~have required the Department of Corrections and Rehabilitation~~
29 ~~to allow nonprofits and health agencies to enter department~~
30 ~~institutions to provide sexual barrier protection devices such as~~
31 ~~condoms to state prisoners.~~

32 ~~(b) In his October 14, 2007, veto message, Governor Arnold~~
33 ~~Schwarzenegger noted that, although it is illegal to engage in sexual~~
34 ~~activity while incarcerated, providing access to condoms is~~
35 ~~“consistent with the need to improve our prison healthcare system~~
36 ~~and overall public health.”~~

37 ~~(c) The veto message directed the department to determine the~~
38 ~~risk and viability of such a program by identifying one state prison~~
39 ~~facility for the purpose of allowing nonprofits and health agencies~~
40 ~~to distribute sexual barrier devices.~~

~~(d) To accomplish the Governor's directive, a pilot program was implemented in Solano State Prison, Facility H, for one year, from November 5, 2008, through November 4, 2009. Several agencies covered all costs and volunteered their staff time and expertise.~~

~~(e) The Center for Health Justice, a nonprofit organization, purchased the condom dispensing machines and condoms, monitored and refilled the dispensers throughout the pilot period, and provided education for staff and inmates.~~

~~(f) Researchers from the Division of Correctional Health Care Services, Public Health Unit, the State Department of Public Health, Office of AIDS, and the Sexually Transmitted Disease Control Branch provided evaluation services and finalized their conclusions in a September 2011 report entitled: Evaluation of a Prisoner Condom Access Pilot Program Conducted in One California State Prison Facility.~~

~~(g) The report concluded that there was no evidence that the availability of condoms created an increased risk of breaches of safety or security, or resulted in injury to staff or inmates in a general population prison facility setting.~~

~~(h) The report also stated that its findings may not be generalizable to other settings, for example, because of higher security or in a setting dedicated to inmates with mental health problems. Additional pilot studies may be warranted in these other settings.~~

~~(i) The report concluded that providing condoms from dispensing machines similar to those used in the pilot program is feasible and of relatively low cost to implement and maintain.~~

~~(j) Estimates of the in-prison HIV and STD transmission rates are not available. However, given the relatively low cost of providing condoms relative to the cost of treating HIV, and that very few HIV infections would need to be prevented to cover the costs of the program, it is likely that providing condoms could reduce department medical costs.~~

~~6502.—~~

~~6500. (a) Based on the recommendations contained in the "Evaluation of a Prisoner Condom Access Pilot Program Conducted in One California State Prison Facility" report, and in light of the successful pilot project conducted at California State Prison, Solano, the Department of Corrections and Rehabilitation~~

1 shall develop a five-year plan to expand the availability of condoms
2 in all California prisons.

3 (b) Commencing January 1, 2015, no less than five prisons, as
4 determined by the department, shall be incorporated into the
5 program each year, with the final year yielding a comprehensive
6 plan that includes every prison in the state.

7 (c) In developing the plan, the department shall consider all of
8 the following recommendations that were made in the report:

9 (1) Initiate and incrementally expand a program to provide
10 inmates with access to condoms while continuing to monitor the
11 safety and acceptability of the program.

12 (2) Consider additional pilot studies in settings that may pose
13 a serious health or safety risk, for example, higher security facilities
14 or housing for inmates with serious mental health problems.

15 (3) Mount dispensers in discreet locations to provide confidential
16 access and increase accessibility by minimizing inoperability due
17 to vandalism. Dispensers with solid steel construction and protected
18 locks are available that are more tamper resistant than those used
19 in the pilot study.

20 (4) Consider making condoms available confidentially upon
21 request during a medical or mental health visit, in addition to
22 dispensing machines.

23 (5) Provide information to staff and inmates describing findings
24 from the current study demonstrating that safety and security were
25 not impacted by the distribution of condoms.

26 (6) Include inmate peer educators, inmates', ~~Men's, and~~
27 ~~Women's~~ *men's and women's* advisory counsels, and medical,
28 public health, and custody staff in local institutional condom
29 program planning and implementation.

30 (d) *The implementation of this program is contingent upon the*
31 *receipt of sufficient donations by the department. All*
32 *nonadministrative costs of the program, including the dispensers*
33 *and condoms, shall be paid for through donations.*